



Docket No. 375461-043R1

SUPPLEMENTAL DECLARATION FOR REISSUE PATENT APPLICATION
(37 C.F.R. §1.175)

I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name.

I believe I am the original and sole inventor (if only one name is listed below) or a joint inventor (if more than one name is listed below) of the subject matter which is described and claimed in patent number **5,874,283**, granted **February 23, 1999**, and for which a reissue patent is sought on the invention entitled:

Mammalian Flap-Specific Endonuclease

the specification of which

- ☐ is attached hereto.
- ☒ was filed on **June 2, 2000** as reissue application number **09/586,744** and was amended on **June 2, 2000; June 15, 2001; March 10, 2003; August 13, 2003; January 24, 2004; May 18, 2004; and October 3, 2005.**

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information which is material to patentability as defined in 37 C.F.R. §1.56.

I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below.

- ☐ by reason of a defective specification or drawing.
- ☒ by reason of the patentee claiming more or less than he had the right to claim in the patent.
- ☐ by reason of other errors.

At least one error upon which the reissue is based is as follows.

As originally filed, the patent application that matured into the patent for which re-issue is being sought included claims directed to certain endonuclease enzymes capable of cleaving certain types of polynucleotide structures (called FEN endonuclease enzymes) and polynucleotides encoding FEN endonuclease enzymes. The claims of the issued patent are directed to polynucleotides encoding FEN endonuclease enzymes and host cells comprising the polynucleotides.

The captioned reissue application includes, in addition to originally issued Claims 1-6, claims directed to assay methods that utilize FEN endonuclease enzymes, hybridization complexes (polynucleotide structures) cleavable by FEN endonuclease enzymes and kits useful for carrying out the assay methods. Although these various assay methods, hybridization complexes and kits were disclosed in the application as originally filed, during the prosecution of the original patent, and at the time the original patent issued, we failed to appreciate that these various assay methods, hybridization complexes and kits were patentable. As a consequence, claims directed to these assay methods, hybridization complexes and kits were never presented for consideration in the prosecution of the original patent. We therefore claimed less than we had the right to claim in the original patent.

All errors corrected in this reissue application up to the signing of this declaration, or errors which are being corrected by a paper filed concurrently with this declaration, which correction of errors I have reviewed, and which are not covered by the prior oath(s) and/or declaration(s), arose without any deceptive intention on the part of the Applicants.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached?	
				Yes	No
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please direct all communications about the application to:

☒ Address associated with Customer No. **37509**

or

☐ Firm or
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Address: P.O. Box 10004

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are

punishable by fine and imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Name of sole or first inventor (given name, middle name, family name): John Joseph Harrington	
Inventor's signature:	Date:
Residence (city, state, country): Mentor, OH	Citizenship: US
Mailing address: 6487 Meadowbrook Mentor, OH 44060	

Name of second inventor (given name, middle name, family name): Chih-Lin Hsieh	
Inventor's signature:	Date:
Residence (city, state, country): Arcadia, CA	Citizenship: US
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Name of third inventor (given name, middle name, family name): Michael R. Lieber	
Inventor's signature: <i>Michael R. Lieber</i>	Date: 5/1/06
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